

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

MICHAEL SHANE BALLEW
TX-1335714-R

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DOCKETED COMPLAINT NO. 09-057

AGREED FINAL ORDER

On this the _____ day of _____, 2011, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of Michael Shane Ballew, (Respondent). The Board makes the following findings of fact and conclusions of law and enters this Order:

In order to conclude this matter Michael Shane Ballew neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein and further agrees to the disciplinary action set out in this Agreed Final Order. The Board makes the following findings of fact and conclusions of law and enters this Order in accordance with TEX. OCC. CODE § 1103.458:

FINDINGS OF FACT

1. Respondent Michael Shane Ballew is a state certified residential real estate appraiser who is and was certified during all times material to this complaint.
2. Respondent is subject to the jurisdiction of the Board, the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE Chapter 1103 (Vernon 2007) (the Act), the Rules of the Board, 22 TEX. ADMIN. CODE §§153, 155, 157 (West 2007) (the Rules), and the Uniform Standards of Professional Appraisal Practice (USPAP) in effect at the time of the appraisal.
3. Respondent appraised real property located at 1207 Tinson, San Antonio, Texas 78251 ("the property") on or about July 11th, 2006.
4. On or about November 24th, 2008, the Complainant, Deloris L. Kraft-Longoria, filed a staff-initiated complaint based on allegations that the Respondent had produced an appraisal report that did not comply with the USPAP.
5. On or about June 25th, 2010, the Board, in accordance with the mandate of the Administrative Procedure Act (the APA), TEX. GOV'T CODE ANN. Chapter 2007, notified Respondent of the nature and accusations involved and Respondent was afforded an opportunity to respond to the accusations alleged by the Complainant. Respondent's response to the complaint was received.

6. Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal report for the property:

- (a) Respondent failed to comply with the record-keeping provisions of the Ethics Rule;
- (b) Respondent failed to provide a source for his value definition;
- (c) Respondent failed to clearly and accurately disclose any extraordinary assumption, hypothetical condition, or limiting condition that directly affects the analysis, opinions and conclusions;
- (d) Respondent failed to identify and report the site description adequately and failed to use an appropriate method or technique to develop an opinion of the site value;
- (e) Respondent failed to collect, verify, analyze and reconcile comparable sales data adequately;
- (f) Respondent failed to provide a brief summary of his supporting rationale for his exclusion of the income approach;
- (g) Respondent failed to analyze all sales of the subject property within three years prior to the effective date of the appraisal;
- (h) Respondent failed to reconcile the quality and quantity of the data within the approaches used, and the applicability or suitability of the approaches; and,
- (i) Respondent's report contains substantial errors of commission or omission as detailed above which resulted in a misleading appraisal report for the property.

7. Respondent omitted material facts in the appraisal report for the property as detailed above.

CONCLUSIONS OF LAW

1. The Texas Appraiser Licensing and Certification Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103.451-1103.5535.

2. Respondent violated the following provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3): USPAP Ethics Rule (record-keeping provisions); USPAP Standards Rules: 1-2(c) & 2-2(b)(v); 1-

2(f) or 1-2(b) & 2-1(c); 1-2(e)(i) & 2-2(b)(iii); 1-4(b)(i) & 2-2(b)(viii); 1-4(a) & 2-2(b)(viii); 2-2(b)(viii); 1-5(b) & 2-2(b)(viii); 1-6(a) & (b) and 2-2(b)(viii); 1-1(a); 1-1(b); 1-1(c); and, 2-1(a).

3. Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(9) by omitting material facts.

4. The parties are authorized to resolve their dispute by means of a consent order in accordance with TEX. OCC. CODE §1103.458.

Based on the above findings of fact and conclusions of law, the Board **ORDERS** that the Respondent shall:

- a. Attend and complete a minimum, 15 classroom-hour course in USPAP;
- b. Attend and complete a minimum, 7 classroom-hour course in the Sales Comparison Approach or Residential Case Studies;
- c. Within 6 months of the effective date of this order, Respondent shall complete 4 hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board. Upon completion of the requisite mentorship hours, and, within 6 months of the effective date of this order, Respondent shall submit on a form provided by the Board, a signed, notarized affidavit attested by the certified USPAP instructor confirming completion of the mentorship hours;
- d. Comply with all future provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

ALL CLASSES required by this Agreed Final Order must be classes approved by the Board and must be completed within **TWELVE MONTHS** of the date of this Order and documentation of attendance and successful completion of the educational requirements of this Order shall be delivered to the Board on or before the end of the twelve-month period indicated. None of the classes or seminars required by this Order may be taken through correspondence courses. Unless otherwise noted above, all classes must be in-class, have an exam, and Respondent must have a passing grade on the exam given in each class. None of these required classes will count toward Respondent's continuing education requirements for licensure or certification. Respondent is solely responsible for locating and scheduling classes to timely satisfy the terms of this agreement.

Failure to comply with any of the terms of this Agreed Final Order within the time allotted shall result in **IMMEDIATE SUSPENSION** of the Respondent's license pursuant to notice to the Respondent from the Board indicating that the Respondent has not fulfilled the requirements of this Agreed Final Order.

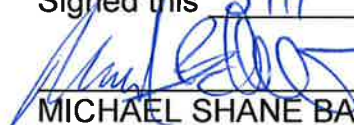
ANY SUCH SUSPENSION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE TEXAS APPRAISER LICENSING AND CERTIFICATION ACT OR THE ADMINISTRATIVE PROCEDURE ACT, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING

OR DUE PROCESS. Respondent shall be notified of any such suspension or lifting of probation by certified mail, return receipt requested, to the last known address as provided to the Board. If Respondent's license is suspended on such a basis, the suspension shall remain in effect until such time as Respondent satisfies that portion of the Agreed Final Order which he has defaulted on and provides adequate documentation of same to the Board.

Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing and any right to seek judicial review of this Agreed Final Order. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's web site.

THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

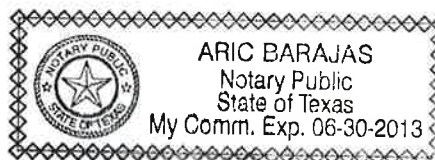
Signed this 5th day of August, 2011.


MICHAEL SHANE BALLEW


SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 5th day of August, 2011, by MICHAEL SHANE BALLEW, to certify which, witness my hand and official seal.


Notary Public Signature


Aric Barajas
Notary Public's Printed Name



Signed by the Standards and Enforcement Services Division this 19th day of August, 2011.


Troy Beaulieu, TALCB Staff Attorney

Signed by the Commissioner this 19th day of August, 2011.


Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 19th day of August, 2011.



Luis De La Garza, Chairperson
Texas Appraiser Licensing and Certification Board